

## CHAPTER NINE

### FAIR HOUSING & EQUAL OPPORTUNITY (FHEO) REVIEW REQUIREMENTS MONITORING AND COMPLIANCE REVIEW

**General Instructions to Monitoring Staff:**

This review should be conducted “on-site” at the local program office and work sites through review of grantee policies and procedures, review of general files, inspection of actual case files selected at random by the Reviewer, and finally, through interviews of key project staff. The issues and concerns identified in this on-site review of the grantee’s Fair Housing – Equal Opportunity policies and procedures should be noted on the FHEO Requirements – Summary Page for Monitoring and Compliance Review found at the end of this chapter.

**A. GENERAL INFORMATION**

Date(s) of On-Site Review: \_\_\_\_\_

Grantee/Project Name: \_\_\_\_\_

Program Year: \_\_\_\_\_

Grant #: \_\_\_\_\_

Grant Term: \_\_\_\_\_

**Local Staff Interviewed:**

Name:	Title:	Location:	Date of Interview:	Telephone #/e-mail:
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**B. ISSUES FROM GENERAL INFORMATION SUMMARY:** *Note: Please refer to Section D of the General Project Information Summary (Chapter One). Any FHEO issues that emerged from the in-house review reflected in Chapter One should be noted below and addressed through interviews with the local project staff and/or on-site file review. The specified FHEO issues can be addressed at the beginning of the monitoring visit, or at whatever point in the monitoring visit the Reviewer feels is appropriate.*

Issues for On-Site Follow-Up	Related Questions/Citations	Staff Response and/or Resolution
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Additional Instructions to Monitoring Staff:**

Fair Housing and Equal Opportunity (FHEO) laws are designed to protect individuals from discrimination on the basis of race, national origin, religion, color, sex, age, family/marital status and handicap. Maryland grantees and their CDBG contractors and subrecipients must comply with applicable FHEO provisions. DHCD staff must review grantee, contractor, and sub-recipient compliance in all aspects of CDBG administration and implementation to ensure:

1. All CDBG-funded activities are carried out in a manner that will not cause discriminatory effects;
2. Opportunities exist for equal opportunity in employment and contracting connected with the CDBG Program, and in access to services; and,
3. Affirmative action is taken to overcome the effects of past discriminatory actions

FHEO laws applicable to the CDBG Program are detailed below. By completing the Title I certification required for receipt of CDBG funds, the State of Maryland assumes a specific legislative mandate to enforce certain Federal provisions. Exhibit E of the Grant Agreement requires the grantee to comply with the applicable Federal civil rights laws and regulations. The relevant rules and regulations include:

- **Title VI of the Civil Rights of 1964** – provides that no person, on the grounds of race, color, or national origin, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- **Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act) and Sections 104 and 106 of Title I of the Housing and Community Development Act of 1974, as amended** – provides for fair housing and prohibits discrimination in the sale, financing or rental of housing, as well as related brokerage services. Grantees must also administer programs and activities relating to housing and urban development in a manner that affirmatively promotes fair housing and furthers the purposes of Title VIII.
- **Executive Order 11063, as amended by Executive Order 12259** – directs grantees to take action necessary to prevent discrimination in the sale, leasing, rental and other disposition of residential property and related facilities (including land to be developed for residential use) provided in whole or in part with Federal loans, grants, contributions and/or advances.
- **Section 504 of the Rehabilitation Act of 1973, as amended** – provides that no qualified individual shall, solely by reason of his or her handicap, be excluded from program participation, including employment, be denied program benefits or be subjected to discrimination.
- **The Americans with Disabilities Act of 1990** – establishes provisions for assuring equality of opportunity, full participation, independent living and self-sufficiency of disabled persons relative to employment, benefits and services, accommodations, commercial facilities, and multi-family housing.
- **Section 109 of the Housing and Community Development Act of 1974, as amended** – provides that no person, on the grounds of race, color, national origin, or sex, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity funded in whole or in part with community development funds made available under Title I of the Act.

- **Age Discrimination Act of 1975, as amended** – provides that no person shall be excluded from participation, denied program benefits, or be subjected to discrimination under any program or activity funded in whole or in part with Federal assistance on the basis of age.
- **Section 3 of the Housing and Urban Development Act of 1968, as amended** – provides that, to the maximum extent feasible, opportunities for training and employment be given to lower income persons residing in the project area and contracts be awarded to business concerns that are located in or owned in substantial part by persons residing in the project area.
- **Executive Order 11246** – prohibits discrimination on basis of race, color, sex, religion or national origin under Federally-assisted construction contracts in excess of \$10,000. The contractor must also post this non-discriminatory policy in conspicuous places, in employment advertisements and in labor union collective bargaining agreements.
- **Section 402 of the Vietnam Era Veteran Readjustment Assistance Act of 1974** – provides that no person shall be discriminated against because he or she is a disabled veteran or veteran of the Vietnam Era.

In addition to these Federal rules, Maryland has its own provisions regarding prohibition of discrimination:

- **Maryland Human Rights Commission (Article 49B)** – prohibits discrimination in State-assisted programs relative to employment, housing, contracting, general program policies and benefits.

#### THE REVIEW PROCESS

To facilitate its review of grantee compliance, DHCD defines the type of FHEO data and documentation to be maintained by the grantee in its record-keeping system. While the type of documentation may vary according to the nature of the CDBG activities being implemented, all grantees should compile and keep track of the following:

- Population demographic data relating to race, ethnic group, sex, age, and head of household;
- Employment data on affirmative action in equal opportunity;
- Minority business participation;
- Characteristics of program beneficiaries; and,
- Actions taken to affirmatively further fair housing.

Exhibit A of the CDBG Grant Agreement between DHCD and the grantee specifies some of the records that must be maintained pertaining to documentation of compliance with Civil Rights requirements. Further, Exhibit D of the Grant Agreement requires that the following relevant documents must be available for review during project monitoring:

Affirmative Action Strategy  
Section 3 Employment Plan

Personnel Policies  
EEO-4 and Handicap Workers Demographic Data

The grantee must maintain data on those employed under the CDBG program on the prescribed Equal Employment Opportunity Commission form EEO-4.

To review grantee compliance, DHCD staff should review the grantee's Affirmative Action Plan, Section 3 plan and other appropriate documentation (personnel policies, employment records, hiring patterns, etc.) that support the grantee's efforts in these areas. Where data are inadequate, it may be necessary to interview project area residents as well as local minority, women's and civil rights groups. It is also important to ensure that a grantee has advised contractors and subrecipients of their respective responsibilities and, where appropriate, FHEO posters are prominently displayed on the job site.

**The FHEO Monitoring and Compliance Review should also be linked to the Project Management/Record-keeping, Procurement, and Labor Standards Monitoring and Compliance reviews.** For example, DHCD staff must also ensure that third party contracts (primarily contracts with a value over \$10,000) contain appropriate FHEO provisions. Minutes of the pre-construction conference should provide evidence that FHEO compliance was discussed with the contractor. Moreover, DHCD staff shall review evidence that the grantee has monitored third party compliance with these provisions through on-site inspections, employee interviews, review of contracts, etc.

#### IN-HOUSE REVIEW

In preparation for the site review, DHCD staff should undertake a review of the grantee's overall project to determine the following:

- What is the nature of the grantee's project and which FHEO laws are applicable?
- Did the grantee hire new employees?
- Who were the anticipated project beneficiaries?
- Is a subrecipient responsible for implementing project activities?
- Has the grantee awarded any third party contracts?

#### ON-SITE REVIEW

The CDBG Program monitoring should be conducted with the representative(s) of the grantee responsible for ensuring compliance with FHEO requirements. Typical activities that might be conducted as part of the on-site FHEO review include:

- Spot check the grantee's office to determine that equal employment opportunity and fair housing posters are on display.
- Ask grantee to describe overall efforts to meet FHEO compliance requirements.
- Review source documentation (contracts, etc.) in grantee files for evidence of grantee compliance, or of complaints not previously reported to DHCD staff.
- Determine if the CDBG project area is consistent with the geographic area described in the CDBG application.
- Review correspondence, prospective bidders lists, phone logs, copies of newspaper ads, etc., to determine grantee outreach efforts.
- Review grantee employment records regarding composition of staff by sex, race, handicap status, national origin; review hiring, training, promotion and compensation data.
- Review copies of grantee site inspection reports to determine the nature and scope of site reviews and the depth of grantee monitoring of third party contractors (file review, payroll review, etc.).
- Review grantee CDBG contracts to determine percentage that meet Section 3 requirements, as well as the percentage of minority- and women-businesses.
- Make site inspection of CDBG activities to determine grantee and third party contractor compliance with FHEO requirements.

The FHEO checklist that follows will assist the DHCD in completing a systematic assessment of grantee compliance with relevant requirements. All concerns or findings identified during the on-site FHEO review should be noted on the FHEO Requirements – Summary Page for Monitoring and Compliance Review found at the end of this chapter of the Handbook.

### C. FAIR HOUSING AND EQUAL OPPORTUNITY REVIEW REQUIREMENTS

FAIR HOUSING & EQUAL OPPORTUNITY CHECKLIST	Documentation Indicates General Program Practice Consistent with FHEO Rules & Regulations?	Comments and Description of Documentation or Issues:
<b>GRANTEE EMPLOYMENT</b>		
1. Does the grantee maintain a file that contains Civil Rights information including demographic data for the area and for the grantee's employment? (Note: a copy of this information should be provided to the Reviewer.)	Yes      No	
2. Does the grantee have written employment and personal policies and practices that incorporate Equal Opportunity guidelines? (Note: These documents should be reviewed on-site and a copy provided to Reviewer.)	Yes      No	
3. Were persons hired by the grantee under the CDBG program?  If "Yes", list those hired by name and position:  _____  _____  _____  _____	Yes      No	If "Yes", describe the recruitment process(es) for the positions hired:
4. Do the grantee's employment records provide sufficiently detailed data to allow assessment of the grantee's staff by: ▪ Sex? ▪ Race? ▪ National Origin? ▪ Disability Status? (Note: Documentation of disability status may be maintained separately from other demographic data. Obtain copies of the grantee's documentation.)	Yes      No Yes      No Yes      No Yes      No	

<b>FAIR HOUSING &amp; EQUAL OPPORTUNITY CHECKLIST</b>	<b>Documentation Indicates General Program Practice Consistent with FHEO Rules &amp; Regulations?</b>	<b>Comments and Description of Documentation or Issues:</b>
<p>5. Is there a grantee Section 3 plan?</p> <p>If “Yes”, does the plan include a strategy for promoting training and employment opportunities for lower income residents?</p>	<p>Yes      No</p> <p>Yes      No</p>	<p>If “Yes”, briefly describe the strategy that has been implemented:</p>
<p>6. Are personnel data sufficiently detailed to assess grantee practices with regard to hiring, training, promotion, and compensation?</p> <p>a) Is there any evidence of disparities in pay for minorities and/or women employed by the grantee?</p> <p>b) Is there any evidence that a disproportionate share of minorities and/or women have failed to receive promotions or salary increases from the grantee?</p> <p>c) Is there any evidence that a disproportionate share of minorities and/or women have been fired by the grantee?</p> <p>d) Have any complaints of discrimination in employment been filed against the grantee by employees or applicants for employment?</p> <p>e) Overall, is there any evidence that indicate that the grantee failed to comply with appropriate FHEO requirements in employment?</p>	<p>Yes      No</p> <p>Yes      No</p> <p>Yes      No</p> <p>Yes      No</p> <p>Yes      No</p> <p>Yes      No</p>	<p>If any answer to 6a through 6e is “Yes”, please explain:</p>
<p>7. Have any other FHEO-related complaints been filed against the grantee?</p>	<p>Yes      No</p>	<p>If “Yes”, please describe:</p>

FAIR HOUSING & EQUAL OPPORTUNITY CHECKLIST	Documentation Indicates General Program Practice Consistent with FHEO Rules & Regulations?	Comments and Description of Documentation or Issues:																
<b>PROJECT ACTIVITIES</b>																		
1. Does the grantee maintain data on the number and characteristics of beneficiaries/participants of CDBG activities and projects that identify the following: <ul style="list-style-type: none"> <li>▪ Low and/or moderate income?</li> <li>▪ White (non-Hispanic origin)?</li> <li>▪ Black (non-Hispanic origin)?</li> <li>▪ Hispanic?</li> <li>▪ Asian or Pacific Islander?</li> <li>▪ Female head of household?</li> <li>▪ Handicap?</li> <li>▪ Age?</li> </ul>	<table border="0"> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> </table>	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	
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2. Does the grantee maintain a copy of the census tract data in the files?	<table border="0"> <tr><td>Yes</td><td>No</td></tr> </table>	Yes	No															
Yes	No																	
<b>FAIR HOUSING</b>																		
1. Has the grantee adopted a fair housing ordinance or promoted fair housing through the display of fair housing brochures or posters in municipal buildings?	<table border="0"> <tr><td>Yes</td><td>No</td></tr> </table>	Yes	No															
Yes	No																	
2. Has action been taken to affirmatively further fair housing through such activities as land development, zoning, site selection policies or programming, needs assessments, etc.?	<table border="0"> <tr><td>Yes</td><td>No</td></tr> </table>	Yes	No	Please describe or explain:														
Yes	No																	
3. Are local fair housing groups (or others interested in housing) assisted through the provision of information, technical assistance, CDBG funds or other support?	<table border="0"> <tr><td>Yes</td><td>No</td></tr> </table>	Yes	No	If "Yes", describe nature of support (and documentation of such assistance):														
Yes	No																	

<b>FAIR HOUSING &amp; EQUAL OPPORTUNITY CHECKLIST</b>	<b>Documentation Indicates General Program Practice Consistent with FHEO Rules &amp; Regulations?</b>	<b>Comments and Description of Documentation or Issues:</b>
4. In an effort to promote fair housing, are those involved in the sale or rental of housing provided with written materials informing them of Federal, State and local housing laws?	Yes      No	
<b>SECTION 504 OF THE REHABILITATION ACT</b>		
1. Initial and Continuing Notification: Has the grantee taken appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability?	Yes      No	
2. Has the grantee designated at least one person to coordinate its efforts to comply with Section 504?	Yes      No	
3. Has the grantee adopted specific grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of Section 504-related complaints? (Reviewer should obtain a copy of procedures and review files relative to any grievances.)	Yes      No	
4. Has the grantee completed a self-evaluation of its projects and activities relative to Section 504 compliance?	Yes      No	If "Yes", briefly describe process (and documentation) of self-evaluation:



FAIR HOUSING & EQUAL OPPORTUNITY CHECKLIST		Documentation Indicates General Program Practice Consistent with FHEO Rules & Regulations?	Comments and Description of Documentation or Issues:
<b>MINORITY BUSINESS ENTERPRISE</b>			
1. Has the grantee developed and adopted a Minority/Women's Business Enterprise Plan?	Yes      No		
a) If so, does the plan list steps to be taken by both the grantee and any contractors?	Yes      No		
b) Has the grantee taken the steps required by the plan in all contracting?	Yes      No		
c) Has the grantee monitored contractors for compliance with the plan? (Note: The Reviewer should check a sample of contractor files to determine compliance with the M/WBE Plan.)	Yes      No		
2. Does the grantee maintain data documenting the affirmative steps it has taken pursuant to 24 CFR Part 85 to utilize minority and women's business enterprises?	Yes      No		
3. (In the adjoining column) Describe the process used by the grantee to <b>identify</b> special needs and problems of minority and women's business enterprises:			
4. (In the adjoining column) Describe the projects and activities undertaken to <b>address</b> any special needs of minority and women's business enterprises:			

## FAIR HOUSING & EQUAL OPPORTUNITY (FHEO) REQUIREMENTS

### SUMMARY PAGE FOR MONITORING AND COMPLIANCE REVIEW

**Instructions to Monitoring Staff:**

In the space below, please note any issues arising from the review. For any concerns or findings identified during the review, provide amplification as necessary, and specify any corrective actions the grantee must take to resolve the issue(s). Also describe the nature of any technical assistance provided during the review. List any follow-up action for the DHCD staff and/or the grantee, and the dates by which such action must be taken.

**Issues/Concerns/Findings (and Relevant Citations)**

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**Necessary Actions Steps and/or Resolution (and Deadlines):**

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Overall, is there source documentation in the grantee's files to support the assessment of grantee compliance with FHEO laws and requirements?

Yes      No

*(Note: also see the chapters in this Handbook relating to Project Management/Record-keeping, Procurement and Labor Standards.)*

Based on the evidence reviewed, has the grantee complied with appropriate FHEO requirements?

Yes      No

**Maryland DHCD Staff Conducting Review:** \_\_\_\_\_

Date Review Completed: \_\_\_\_\_